LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS
200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
http://www.in.gov/legislative

FISCAL IMPACT STATEMENT

LS 7319 | **NOTE PREPARED:** Jan 9, 2011
BILL NUMBER: HB 1547 | **BILL AMENDED:**

SUBJECT: Historic Preservation Tax Credit.

FIRST AUTHOR: Rep. Clere | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL | **IMPACT:** State
X DEDICATED
FEDERAL

Summary of Legislation: *Historic Rehabilitation Income Tax Credit*: This bill provides that the Historic Rehabilitation Income Tax Credit may be assigned. It provides that the credit may be recaptured from the person who receives the certification or from an assignee to whom the property is transferred. It provides that the transfer of the property as a condominium will not cause the credit to be recaptured. (Current law provides the credit is recaptured if the property is transferred within five years of the completion of the rehabilitation or preservation.) The bill provides that the adjusted basis of the property is not reduced by the amount of credit if a person is entitled to a federal low income housing credit for the historic property. It increases the amount of the credit to 40% of qualified expenses for the rehabilitation or preservation of a historic property if the qualified expenses are less than $2 M. It increases the credit to 40% of qualified expenses if the credit is awarded to rehabilitate or preserve a: (1) school; (2) hospital; or (3) project that receives a grant from the Indiana Main Street Program. It increases the basis of qualified expenses for the preservation or rehabilitation of historic property which is located in a United States Housing and Urban Development qualified census tract or difficult to develop area. (Current law provides that the amount of the credit equals 20% of qualified expenses.) The bill provides that a particular project may not receive more than 20% of the annual statewide limit for the credit. It increases the minimum amount of expenditures to qualify for the credit from $10,000 to $25,000. It annually increases the annual statewide limit for the credit until the limit is $10 M per state fiscal year for state fiscal years beginning after June 30, 2016. It also requires the Division of Historic Preservation and Archeology of the Department of Natural Resources to reserve 20% of the available credit for projects for which the qualified expenditures approved by the Division do not exceed $250,000.

Fee for Certifying Historic Property: The bill provides that the Division may collect a fee which equals 2.5% of qualified expenses for projects with over $2 M in qualified expenses. It provides the fee is used to pay for administrative costs associated with certifying historic property for the tax credit.

Historic Rehabilitation Credit Fund: The bill establishes the Historic Rehabilitation Credit Fund. It provides that the fee collected by the Division of Historic Preservation and Archeology shall be deposited into the fund. It also provides that money in the fund in excess of $10 M reverts to the state General Fund at the end of a fiscal year.

The bill authorizes the adoption of emergency rules.

Effective Date: July 1, 2011; January 1, 2012.

Explanation of State Expenditures: *Department of State Revenue (DOR)*: The DOR will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the changes in the tax credit. DOR's current level of resources should be sufficient to implement these changes.

Division of Historic Preservation and Archaeology (DHPA): The bill makes several changes to the Historic Rehabilitation Income Tax Credit. As a result, credit application forms will need to be revised, which will result in increased administrative costs. Additionally, the changes provided in the bill will increase the complexity of the application, review and certification processes.

The bill also provides for the DHPA of the Department of Natural Resources (DNR) to collect a fee that equals 2.5% of qualified expenses for projects with over $2 M qualified expenses. The fee will be used to pay for administrative costs associated with certifying historic property for the tax credit. The fee will be charged at the point of certification when all qualified expenses are known, thus the amount of fees that will be collected is indeterminable.

Explanation of State Revenues: *Historic Rehabilitation Credit Fund*: The bill establishes the Historic Rehabilitation Credit Fund. The fund will include fees collected by the DHPA. Money that exceeds $10 M will revert to the state General Fund at the end of a fiscal year.

Historic Rehabilitation Income Tax Credit: The bill phases in an increase in the annual state-wide limit of $450,000 to $10 M over a period of five years beginning in FY 2013. This would mean that approved projects that are currently queued as a result of the state-wide limit of $450,000 would be able to claim their respective credit awards sooner. The queue of projects totals about $5 M.

The bill also increases the amount of the credit to 40% of qualified expenses for the rehabilitation or preservation of a historic property if the qualified expenses are less than $2 M. The credit is increased to 40% of qualified expenses if the credit is awarded to rehabilitate or preserve a school, hospital, or a project that receives a grant from the Indiana Main Street Program. These changes will affect awards being certified after the effective date of this legislation.

The bill allows a taxpayer who is entitled to claim the Historic Rehabilitation Tax Credit to assign any portion of the credit to another taxpayer. This will allow for more timely use of the credits, which means the impact will be noticed sooner than if the credit was not able to be assigned. The ability to assign these tax credits would also include those credits that are currently being carried forward within the 15-year time limit. Therefore, the actual amount of credits claimed in the near future could substantially increase. This is due to the fact that some of the prior certified credits may not have been exhausted, but under the bill could be claimed sooner within the 15-year time limit by a credit assignee. It also could allow future credits to be used immediately by a credit assignee, versus the taxpayer to whom DNR certified the credit to the extent that the taxpayer has tax liability.

<u>*Background Information on the Historic Rehabilitation Tax Credit*</u> - Current statute provides for a nonrefundable AGI Tax credit for individual and corporate taxpayers equal to 20% of the historic preservation or rehabilitation expenditures made by the taxpayer. The expenditures must exceed $10,000 and must be certified by the DNR. The tax credit is nonrefundable, but excess credits may be carried forward for 15 years. The tax credit may not be carried back.

Current statute prohibits the aggregate amount of credits certified to taxpayers by the DNR during a fiscal year from exceeding $450,000. From FY 1995 to FY 2011, the DNR certified about $8.1 M in credits. In addition, the DNR has already certified tax credits up to the annual aggregate credit limit ($450,000) for each year through FY 2022. This translates into approximately $5 M in additional tax credits to be claimed against future tax liabilities.

In 2006, 50 taxpayers claimed $117,026; 57 taxpayers claimed $217,783 in 2007; and in 2008, 48 taxpayers claimed $153,611 in Historic Rehabilitation Tax Credits on Indiana individual income tax returns. Historic Rehabilitation Tax Credits were not claimed by corporate taxpayers in 2006, 2007, and 2008. Revenue from the AGI Tax on individuals and corporations is distributed to the state General Fund.

Historic Rehabilitation Tax Credit Projects: The DHPA approves all qualifying Indiana Historic Rehabilitation Tax Credit projects. The $450,000 allocation for the current fiscal year was certified for projects that were approved in 2002. The allocation for FY 2011 was utilized by seven new projects, and one carried over from a previous year. Three of these projects exceeded $500,000 in qualified costs and maximized the $100,000 per project cap established by administrative rule. The tax credit, which is calculated at 20% of qualified costs, subsidized 15% of approved project costs for this group of projects. The DHPA is currently approving credits for FY 2022.

<u>Explanation of Local Expenditures:</u>

<u>Explanation of Local Revenues:</u>

<u>State Agencies Affected:</u> Department of State Revenue; Division of Historic Preservation and Archeology, Department of Natural Resources.

<u>Local Agencies Affected:</u>

<u>Information Sources:</u> OFMA Income Tax Databases; David Duvall, DHPA, 232-1635.

<u>Fiscal Analyst:</u> Jessica Harmon, 317-232-9854.